

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R. RAMACHANDRAN NAIR**

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

LA. App. No. 93 of 2002

LAR.240/2000 of SUB COURT, KOZHIKODE
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APPELLANT/CLAIMANT:

**KUNNATH VINODKUMAR, S/O. HARIDASAN,
KUNNATH HOUSE, NELLICODE P.O., CALICUT,
KOZHIKODE DISTRICT.**

BY ADV. SRI. P.K. RAMKUMAR

RESPONDENT/RESPONDENT:

**STATE OF KERALA, REPRESENTED BY THE
SPECIAL TAHSILDAR, LAND ACQUISITION, N.H.NO.1,
KOZHIKODE**

BY GOVERNMENT PLEADER SMT. K.R. DEEPA.

**THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY
HEARD ON 04/06/2007 ALONG WITH LAA. NO. 128 OF 2002, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

KURIAN JOSEPH & T.R. RAMACHANDRAN NAIR, JJ.

L.A.A. Nos. 93 & 128 OF 2002

Dated this the 4th day of June, 2007.

J U D G M E N T

Kurian Joseph, J.

These appeals arise from the judgment and decree in L.A.R. No. 240/2000 on the file of Subordinate Judge's Court, Kozhikode. The former is by the claimant for enhancement and the latter is by the State against the enhancement granted by the Reference Court. Acquisition is for the purpose of Calicut bypass. The relied on judgment is Exhibit A2, L.A.R. No. 479/1997. The State took up the matter in L.A.A. No. 774/2006. It may be noted that L.A.A 774/2006 was an appeal filed against the judgment and decree passed by the Reference Court after remand wherein the Reference Court fixed the land value at the rate of Rs. 60,000/- per cent for wet land. L.A.A 774/2006 was dismissed by judgment dated 09.04.2007 sustaining the land value at the rate of Rs. 60,000/- per cent in respect of wet land. The property covered by this case also is similarly situated as far as wet land is concerned and having same importance also. The Reference Court has fixed the land value at the rate of Rs. 60,000/- per cent for garden land and Rs. 12,000/- per cent for

wet land. In view of the finality attained to Rs. 60,000/- per cent for wet land as per judgment in L.A.A 774/2006, the appeal filed by the State, L.A.A. No. 128/2002 is dismissed.

2. The claimant in this case, L.A.A. No. 93/2002, has prayed for enhancement at the rate of Rs. 15,000/- per cent for garden land and Rs. 38,000/- per cent for wet land. Of the total extent, it is submitted that 23 cents is garden land and 12 cents wet land. In view of the land value that has been granted for wet land at the rate of Rs. 60,000/- per cent, the appellant-claimant is entitled to enhancement at the rate of Rs. 38,000/- per cent as claimed. Thus land value is fixed at the rate of Rs. 50,000/- per cent for wet land. As far as garden land is concerned, even according to the Reference Court, five times the value of wet land has been granted to the garden land. Going by the report of the Commissioner, garden land in this case would fetch at the rate of Rs. 1 lakh per cent.

3. So going by any standard and going by the evidence available in this case, the claim made by the appellant is just and proper for fixation at the rate of Rs. 75,000/- per cent. Therefore, it is ordered that the appellant-claimant will be entitled to land value fixed at the rate of Rs. 75,000/- per cent for garden land.

Accordingly, this appeal is allowed to the extent of declaring that the appellant-claimant will be entitled to land value at the rate of Rs. 50,000/- per cent for wet land and Rs. 75,000/- per cent for garden land along with statutory benefits. No costs.

**KURIAN JOSEPH
JUDGE**

**T.R. RAMACHANDRAN NAIR
JUDGE**

smp